

KAMALA D. HARRIS
Attorney General of California
GLENN R. PRUDEN
Supervising Deputy Attorney General
MICHELE J. SWANSON
Deputy Attorney General
State Bar No. 191193
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5703
Fax: (415) 703-1234
E-mail: Michele.Swanson@doj.ca.gov
Attorneys for Respondent

ROGER I. TEICH
State Bar No. 147076
290 Nevada Street
San Francisco, CA 94110
Telephone: (415) 948-0045
E-mail: rteich@juno.com

DAVID A. NICKERSON
State Bar No. 111885
32 Bridgegate Drive
San Rafael, CA 94903
Telephone: (415) 507-9097
E-mail: nickersonlaw@comcast.net
Attorneys for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DARREN CORNELIUS STANLEY,

Petitioner,

v.

**RON DAVIS, Warden, California State
Prison at San Quentin,**

Respondent.

C 07-4727 EMC [Related to C 14-4108 EMC]

DEATH PENALTY CASE

**JOINT CASE MANAGEMENT
STATEMENT**

JOINT STATEMENT

On December 17, 2015, this Court held a case management conference, during which it stated its intention “to lift the stay so that a finalized petition may be filed and this matter may proceed.” Doc. 183; Doc. 184 at 1. On December 18, 2015, the Court ordered the parties to file a joint statement confirming the “days remaining for Petitioner to file a finalized petition once the stay is lifted.” Doc. 183; Doc. 184 at 1-2. On December 28, 2015, the parties filed a joint statement confirming that there were 127 “days remaining for Petitioner to file a finalized petition once the stay is lifted.” Doc. 188 at 2-3; *see* Doc. 183; Doc. 184 at 1.

1 On January 4, 2016, the Court scheduled a further case management conference for
2 February 9, 2016, with a joint case management statement due by February 2, 2016. Doc. 189.

3 On January 25, 2016, petitioner filed a fourth motion for equitable tolling, asking for an
4 additional 90 days to file his finalized petition once the stay is lifted, Doc. 190, and a motion to
5 file a declaration of counsel in support of the motion for equitable tolling under seal. Doc. 191.
6 On January 29, 2016, respondent filed an opposition to the motion to file counsel's declaration
7 under seal. Doc. 192. On February 4, 2016, the Court denied petitioner's motion to file counsel's
8 declaration under seal. Doc. 195.

9 On February 2, 2016, the parties filed a joint case management statement. Doc. 193. On
10 February 3, 2016, the Court vacated a hearing date on petitioner's fourth motion for equitable
11 tolling, and indicated that it would rule on the papers. Doc. 194. The Court rescheduled the case
12 management conference for March 10, 2016, and ordered the parties to file an updated joint case
13 management statement by March 3, 2016. *Id.*

14 On February 5, 2016, petitioner filed a redacted declaration of counsel in support of his
15 fourth motion for equitable tolling. Doc. 197. On February 8, 2016, respondent filed a motion to
16 strike the redacted declaration, without setting a hearing date for the motion. Doc. 199. On
17 February 22, 2016, petitioner filed an opposition. Doc. 205. On February 24, 2016, respondent
18 filed a reply. Doc. 207.

19 On February 10, 2016, petitioner filed a motion to vacate the protective order covering trial
20 counsels' case file. Doc. 201. On February 11, 2016, the Court vacated a hearing date on the
21 motion, and indicated that it would rule on the papers. Doc. 202. On February 24, 2016,
22 respondent filed an opposition. Doc. 206. Pursuant to Local Rule 7-3(c), petitioner will file a
23 reply, if any, by March 2, 2016.

24 On February 12, 2016, respondent filed an opposition to petitioner's fourth motion for
25 equitable tolling. Doc. 203. On February 19, 2016, petitioner filed a reply. Doc. 204.

On February 29, 2016, petitioner filed a motion to extend competency stay and hold the case in abeyance until his *McPeters*¹ state petition may be resolved by the California Supreme Court. Doc. 208. The motion is calendared for hearing on April 14, 2016, at 1:30 p.m., with respondent's opposition due by March 14, 2016, and petitioner's reply, if any, by March 21, 2016. Lead counsel for respondent is unavailable on April 14, 2016, due to a pre-paid vacation out of town.

JOINT CONCLUSION

The following motions have been fully briefed (or will be as of March 2, 2016) and await a ruling by the Court on the papers: (1) petitioner's fourth motion for equitable tolling, Doc. 190; (2) respondent's motion to strike the redacted declaration of counsel, Doc. 199; and (3) petitioner's motion to vacate the protective order, Doc. 201. Petitioner's motion to extend the competency stay for the filing and resolution of his state *McPeters*-style petition is also pending, but not yet fully briefed. Doc. 208. Due to the unavailability of lead counsel for respondent on April 14, 2016, the parties request that the Court reschedule the hearing on petitioner's motion to April 21, 2016. The Court has not as yet "lift[ed] the stay so that a finalized petition may be filed and this matter may proceed." Doc. 183; Doc. 184 at 1.

Dated: March 2, 2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLENN R. PRUDEN
Supervising Deputy Attorney General

/s/ Michele J. Swanson
MICHELE J. SWANSON
Deputy Attorney General
Attorneys for Respondent

¹ The reference is to a petition alleging permanent *Ford* incompetence along the lines of the allegations and proof pending before the California Supreme Court in *McPeters* (*Ronald Avery*) on *H.C.*, Case Number S226918.

1 Dated: March 2, 2016

Respectfully submitted,

3 /s/ Roger I. Teich
4 ROGER I. TEICH
5 DAVID A. NICKERSON
6 *Attorneys for Petitioner*

6 SF2007402979
7 20826210.doc

CERTIFICATE OF SERVICE

Case Name: Stanley v. Davis, Warden

No. C 07-4727 EMC

I hereby certify that on March 2, 2016, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

JOINT CASE MANAGEMENT STATEMENT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 2, 2016, at San Francisco, California.

M. Mendiola
Declarant

/s/ M. Mendiola
Signature